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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)	Case No. 5:21-mj-71523-MAG-1
Plaintiff,)	STIPULATION AND PROTECTIVE ORDER
v.)	
MARK DEHART,)	
Defendant.)	

With the agreement of the parties, the Court enters the following Protective Order:

Defendant is charged with 18 U.S.C. § 922(g)(1)—Felon in Possession of Ammunition. Upon receipt of a discovery request, the United States will produce documents and other materials pertaining to the defendant and the charged offense to defense counsel. The discovery to be provided includes documents or other materials falling into one or more of the following categories (collectively, “Protected Information”):

1. Personal Identifying Information of any individual (other than his or her name), including without limitation any person’s date of birth, social security number, residence or business address, telephone numbers, email addresses, driver’s license number, professional license

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- 1 number, family members names, or criminal histories (“Personal Identifying Information”);
- 2 2. Financial information of any individual or business, including without limitation bank
- 3 account numbers, credit or debit card numbers, account passwords, contact information, and
- 4 taxpayer identification numbers (“Financial Information”);
- 5 3. Medical records or other patient information of any individual covered by the Health
- 6 Insurance Portability and Accountability Act of 1996 (HIPAA) (“Medical Information”);
- 7 4. Evidence related to Defendant’s prior arrests involving domestic violence, including medical
- 8 reports and photographs of the victim’s injuries and materials that otherwise identify the
- 9 victim.

10 The United States will identify discovery materials as Protected Information by marking such
11 materials “CONFIDENTIAL– SUBJECT TO PROTECTIVE ORDER” or by providing written notice
12 identifying discovery materials as Protected Information.

13 To ensure that Protected Information is not subject to unauthorized disclosure or misuse,
14 **IT IS HEREBY ORDERED** that defense counsel of record, their investigators, assistants,
15 employees, and independent contractors (collectively, “the Defense Team”) may review with the
16 defendant all discovery material produced by the government, but shall not provide a defendant with
17 copies of, or permit defendant to make copies of, or have unsupervised access to, any discovery material
18 produced by the government that contains Personal Identifying Information, Financial Information,
19 and/or Medical Information, unless the Personal Identifying Information, Financial Information, and/or
20 Medical Information has first been **entirely redacted** from the discovery materials. The government
21 and defense counsel are ordered to work together to ensure that these materials are protected, but that
22 defendant has as much access to the materials as can be provided consistent with this Court’s order.
23 Discovery material that clearly pertains to a specific defendant and does not contain Protected
24 Information regarding any other person (*e.g.*, defendant’s own bank records, telephone records, and
25 business records) may be provided to that defendant unredacted

26 The Defense Team may show witnesses Personal Identifying Information, Financial Information,
27 and/or Medical Information in the course of preparing a defense if the witness, by reason of their
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1 participation in the proceeding, would have seen or had reason to know such information. Witnesses
2 may only view Personal Identifying Information, Financial Information, and/or Medical Information in
3 the presence of the Defense Team.

4 Defense counsel may also provide unredacted copies of Protected Information to any experts
5 retained to assist with the preparation of the defense in the captioned case. The defendant, all members
6 of the defense team, and any experts who receive discovery under this Order shall be provided a copy of
7 this Order along with those materials and shall initial and date the order reflecting their agreement to be
8 bound by it.

9 The materials provided pursuant to this protective order may only be used for the specific
10 purpose of preparing or presenting a defense in this matter unless specifically authorized by the Court.

11 This Order shall also apply to any copies made of any materials covered by this Order.

12 **IT IS FURTHER ORDERED** that neither a defendant nor any member of the Defense Team
13 shall provide any Protected Information produced by the government to any third party (*i.e.*, any person
14 who is not a member of the defense team), except in the manner described above with respect to
15 witnesses or experts, or make any public disclosure of the same, other than in a court filing, without the
16 government's express written permission or further order of this Court. If a party files a pleading that
17 contains or attaches Protected Information subject to this Order, the Protected Information must be filed
18 under seal.

19 **IT IS FURTHER ORDERED** that after any judgment or disposition has become final and there
20 are no pending appeals counsel for the defendant shall notify the government so that the government
21 may request Protected Information subject to this Protective Order (including any copies) be returned to
22 the United States or destroyed. Upon request of the United States, counsel for defendant shall return or
23 destroy materials subject to this Protective Order (including any copies) within 14 days, unless counsel
24 for defendant can ensure that the Protected Information will continue being kept under the conditions
25 specified in this Order. To the extent the Defense Team maintains possession of the Protected
26 Information, it agrees to do so under the conditions specified in this Order. If counsel for defendant
27 returns documents and materials subject to this Order to the United States, the United States shall
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maintain those documents and materials until the period for filing a motion under 28 U.S.C. § 2255 has expired. After the statutory period for filing a motion under 28 U.S.C. § 2255 has expired, the United States is free to destroy documents and materials subject to this Order. If defendant is represented by counsel and files a motion pursuant to 28 U.S.C. § 2255, the United States will provide counsel with the documents and materials subject to this Protective Order under the terms of this Order.

This stipulation is without prejudice to either party applying to the Court to modify the terms of any protective order. This Court shall retain jurisdiction to modify this Order upon motion of either party even after the conclusion of district court proceedings in this case.

IT IS SO STIPULATED.

STEPHANIE M. HINDS
Acting United States Attorney

Dated: 12/9/2021

/s/


CHRISTOFFER LEE
Assistant United States Attorney

/s/

VARELL FULLER
Counsel for Defendant **MARK DEHART**

IT IS SO ORDERED.

Dated: December 9, 2021



HONORABLE DONNA M. RYU
United States Magistrate Judge